

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

GARY SPICER,

Case No. 19-cv-0447 (SRN/DTS)

Plaintiff,

v.

REPORT AND RECOMMENDATION

THOMAS ROY,
EMILY JOHNSON PIPER,
NANCY JOHNSTON,
LORI SWANSON,
MINNESOTA ATTORNEY GENERAL,
MINNESOTA SENTENCING
COMMISSION, and
JANE AND JOHN DOES,

Defendant.

In an order dated March 28, 2019, this Court directed Plaintiff to file an amended complaint consistent with the terms of a prior order severing this case into an independent action. See [ECF Nos. 1, 4]. Spicer was given until Monday, April 29, 2019 to file an amended complaint, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

That deadline has now passed, and Spicer has not filed an amended complaint. In fact, Spicer has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See *Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a

plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Date: May 29, 2019

s/David T. Schultz
DAVID T. SCHULTZ
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).